

STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
BOARD FOR LICENSING CONTRACTORS

MAY 18, 2010 BOARD MEETING
(LEGAL REPORT)

Location: Crowne Plaza Memphis Downtown
300 North Second Street
Memphis, Tennessee 38105

Time: 12:00 noon

MORROW & ASSOCIATES
COURT REPORTERS
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1 - APPEARANCES -

2 BOARD MEMBERS:

3 Mr. Mark Brodd
4 Mr. Reese Smith, III
5 Ms. Cindi G. DeBusk - Chair
6 Mr. Ronnie Tickle
7 Mr. Earnest M. Owens

8 For the Board:

9 MS. JENNY GRAY
10 Attorney at Law
11 BOARD OF LICENSING CONTRACTORS
12 500 James Robertson Parkway
13 Davy Crockett Tower, 12th Floor
14 Nashville, Tennessee 37243
15 (615) 741-3072
16 Jenny.Gray@tn.gov

17 For the State:

18 MR. MICHAEL D. DRIVER
19 Attorney at Law
20 BOARD OF LICENSING CONTRACTORS
21 Office of Legal Counsel
22 500 James Robertson Parkway
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Also present:

25 Telise Roberts
26 Assistant to the Board
27
28 Nicole Canter
29 Paralegal to Michael Driver

30 Reported by:

31 CORA JEAN LEWIS
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1 P-R-O-C-E-E-D-I-N-G-S

2 Ms. DeBUSK: I would like to
3 call to order the Tennessee Board for
4 Licensing Contractors meeting held on May 18,
5 2010. I will call the meeting to order
6 beginning with the roll call starting to my
7 left.

8 MR. BRODD: Mark Brodd,
9 Knoxville.

10 MR. SMITH: Reese Smith,
11 Franklin.

12 MS. DeBUSK: Cindi DeBusk,
13 Knoxville.

14 MR. TICKLE: Ronnie Tickle,
15 Memphis.

16 MR. OWENS: Earnest Owens,
17 Memphis.

18 MS. DeBUSK: At this time the
19 agenda states to review, approve, and adopt
20 the agenda as written. We do have one change
21 to the agenda. The meeting for May 19 will
22 not take place. If you will make that
23 correction on your agenda.

24 Do we have any other additions or

4

1 corrections to the agenda?

2 May I have a motion to adopt the
3 agenda with the corrections?
4 MR. TICKLE: Motion.
5 MR. BRODD: Second.
6 MS. DeBUSK: All in favor?
7 THE BOARD: I.
8 MS. DeBUSK: The next item on
9 the agenda is hardships. A number of those
10 have been approved by various members of the
11 Board and executive director. So do I
12 entertain a motion of approval of hardships
13 listed? That's behind Tab 1.
14 MR. BRODD: I will make that
15 motion.
16 MR. OWENS: Second.
17 MS. DeBUSK: All in favor?
18 THE BOARD: I.
19 MS. DeBUSK: Oppose?
20 THE BOARD: (Nonresponsive.)
21 MS. DeBUSK: Behind Tab 2 we
22 have the waived interviews. I believe, Mark,
23 you have a comment about one of the waived
24 interviews.

5

1 MR. BRODD: I do. I'm not sure
2 it's on the waived.
3 MS. DeBUSK: Is it not on the

4 waived.

5 MS. ROBERTS: It's not on the
6 waived list. It's on the interview list,
7 which I didn't bring. So there's only one.

8 MS. DeBUSK: On the
9 interviewed/waived list.

10 MR. BRODD: Now would be the
11 time to bring it up. This is MTE, LLC they
12 are applying for a BC and a CE license for
13 Memphis. It's a company that principals have
14 an existing company called Middle Tennessee
15 Electric. There was some confusion on the
16 envelop that says does not need BC on both
17 licenses. And experience, no BC experience
18 shown. Frank Neal has listed those issues.

19 I interviewed Billy Stanley this
20 morning. He is one of the two partners and
21 he is withdrawing -- or has withdrawn his
22 interest in Midtown Electric and is
23 essentially starting up MTE Electric with a
24 partner that is in Midtown Electric. So

6

1 essentially they're starting -- he's starting
2 a second firm. He does have general
3 construction experience and electrical
4 experience.

5 He has submitted a personal financial
6 statement for himself. He has not submitted
7 a personal financial statement for his
8 partner. I think we ought to recommend that
9 we obtain that personal financial statement
10 from his partner. Other than that I would be
11 making a recommendation that we approve this
12 application.

13 MR. SMITH: Did he take the BCA
14 exam?

15 MR. BRODD: He's taken both the
16 CE and BC exams and he's passed both of
17 those.

18 MR. TICKLE: Are we making a
19 motion to approve subject to his partner's
20 financial statement?

21 MR. BRODD: Correct.

22 MS. DeBUSK: Do we have a
23 second?

24 MR. TICKLE: Second.

7

1 MS. DeBUSK: Any discussion?
2 All in favor, I.

3 THE BOARD: I.

4 MS. DeBUSK: Opposition?

5 THE BOARD: (Nonresponsive.)

6 MS. DeBUSK: Motion carries.

7 Under revisions we have one. It's
8 Ronnie Bull Construction. Telise, is Ronnie
9 Bull Construction listed under revisions?

10 Is it on the list?

11 MS. ROBERTS: Yes.

12 MS. DeBUSK: I'm making a motion
13 not to approve Ronnie Bull Construction based
14 on issues with the QA. And to continue, we
15 will need Travis Bull to come to the board
16 meeting and speak with the Board about his
17 intentions.

18 MS. GRAY: Can I clarify, it's
19 Travis Bull, the QA that you have mentioned.
20 What are the issues?

21 MS. DeBUSK: QA, will need to
22 apply for own license or transfer to a
23 partnership. Apparently he's QA on another
24 company. He wants to be a QA of this

8

1 company, but he's not the owner of it. And
2 he didn't sign this application or the
3 owner/officer has not signed the application.
4 But Travis Bull, the name is printed as
5 qualifying agent Travis Bull, but we don't
6 have a signature.

7 So I make a motion that we hold

8 Ronnie Bull Construction.

9 MR. BRODD: Second.

10 MS. DeBUSK: All in favor, I?

11 THE BOARD: I.

12 MS. DeBUSK: Opposition?

13 THE BOARD: (Nonresponsive.)

14 MS. DeBUSK: Motion carries.

15 LLE. I make a motion that we approve

16 Ronnie Studdard, Jerry Parker, and Rod

17 Donovant, and we hold Terrell Clark, Jr.

18 We'll totally deny Terrell Clark, Jr. based

19 on two burglaries and a cocaine -- he served

20 jail time, prison time, and he was paroled

21 February 17, 2010. So we will deny him.

22 MS. GRAY: What were the

23 charges? I mean, what were the crimes again?

24 MS. DeBUSK: Burglaries, two

9

1 separate dates and a cocaine charge was a

2 third date.

3 MR. TICKLE: I believe you've

4 got two different pictures.

5 MS. DeBUSK: Oh, well, the

6 photograph with the driver's license in my

7 opinion does not match the photograph or the

8 person that's pictured taking the LLE exam.

9 MR. SMITH: Did you mention

10 Donald Cantrell?

11 MS. DeBUSK: I'm going to.

12 MR. SMITH: I'm sorry.

13 MS. DeBUSK: That's okay. And

14 Donald Cantrell, we'll approve him pending a

15 copy of a valid photo ID. So I make that in

16 the form of a motion.

17 MR. SMITH: Second.

18 MS. DeBUSK: Do we need

19 discussion?

20 All in favor, I?

21 THE BOARD: I.

22 MS. DeBUSK: Opposition?

23 THE BOARD: (Nonresponsive.)

24 MS. DeBUSK: The motion carries.

10

1 Home improvement applicants. Do we

2 have anything for home improvement

3 applicants?

4 MS. ROBERTS: No.

5 MS. DeBUSK: No one then?

6 MS. ROBERTS: Couldn't get it in

7 or processed. There are only three to four,

8 but they'll be on the list the next time.

9 MS. DeBUSK: So based upon board

10 member recommendation -- well, I need a

11 motion to approve the ones listed.

12 MS. ROBERTS: Yes.

13 MS. GRAY: Do we want them
14 listed?

15 MS. ROBERTS: You can discuss
16 that later on.

17 MS. GRAY: They were unable to
18 process the home improvement applications due
19 to the flooding. And so what --

20 MS. ROBERTS: A lot of
21 contractors and -- it includes everybody, not
22 just some of them.

23 MS. GRAY: A lot of files were
24 not processed due to the flood. According to

11

1 T.C.A. 84-4-108 we can as a Board or you can
2 as a Board have an electronic meeting without
3 a physical quorum being present by
4 electronics if you make a determination that
5 a necessity exists and a necessity under the
6 statute means that the matters to be
7 considered by the governing body at that
8 meeting require timely action by the body,
9 that physical presence by a quorum of the
10 members is not practical within the period of
11 time requiring action and that participation
12 by a quorum of the members by electronic or

13 other means of communication is necessary.

14 So I would just ask a motion be made
15 that we have a necessity meeting at a later
16 date to be decided unless we already have
17 one. Do we, Telise?

18 MS. ROBERTS: We don't have a
19 date yet.

20 MS. DeBUSK: So we need a motion
21 to approve the revisions LLEs and the home
22 improvements.

23 MS. GRAY: Well, we need a
24 motion to meet by electronic means at a later

12

1 date to approve those applications.

2 MS. DeBUSK: Right. But my
3 question is: Do you want us to put that --

4 MS. ROBERTS: It's based on the
5 motions.

6 MS. GRAY: Oh, okay. I'm sorry.

7 MS. DeBUSK: First, we need a
8 motion to approve the applicants in front of
9 us based on the board member recommendations.
10 So do I have a motion?

11 MR. SMITH: So moved.

12 MR. TICKLE: Second.

13 MS. DeBUSK: Do we have any

14 discussion?

15 All in favor, I?

16 THE BOARD: I.

17 MS. DeBUSK: Opposition?

18 THE BOARD: (Nonresponsive.)

19 MS. DeBUSK: Motion carries.

20 Now, we need to have a motion to at a
21 later date have an electronic meeting to
22 speak about applicants that couldn't get
23 their paperwork in due to flood preventing
24 them from getting it in.

13

1 MS. ROBERTS: Or that we
2 couldn't get it processed.

3 MS. DeBUSK: So we're going to
4 make a motion that it's okay to meet by
5 electronic participation for the board
6 members --

7 MS. GRAY: Because a necessity
8 exists.

9 MS. DeBUSK: -- at a later date
10 because a necessity exists.

11 MR. OWENS: Second.

12 MS. DeBUSK: Oh, did I make that
13 as a motion?

14 MR. OWENS: Yeah.

15 MS. DeBUSK: Oh, all right. So

16 we have a second.

17 Do we have discussion about that?

18 MR. OWENS: No.

19 MS. DeBUSK: All in favor?

20 THE BOARD: I.

21 MS. DeBUSK: Opposition?

22 THE BOARD: (Nonresponsive.)

23 MS. DeBUSK: Motion carries.

24 I'm just making sure I was understanding what

14

1 was going on.

2 Now, I'm going to turn the meeting
3 over to Jenny Gray, counsel for the Board.

4 MS. GRAY: The Home Improvement
5 Legal Report has been reviewed by the
6 Advisory Commission and approved with one
7 change to Item No. 7, increasing the penalty
8 to \$500 from \$250. That's the only change on
9 the Home Improvement Report.

10 The Commercial Subcommittee has
11 approved the Commercial Legal Report with no
12 changes.

13 The Residential Subcommittee has
14 approved the legal report with changes and I
15 will discuss those now. Item No. 1 on the
16 residential legal report, \$500 has been added

17 to the penalty making the total penalty
18 \$2000.

19 Item No. 11, it was marked for
20 discussion and it was decided that a letter
21 of warning along with a \$500 fine would be
22 issued. Number 19 was recommended for a
23 formal hearing with authority to settle by
24 \$1000, and that has been amended to a \$2500

15

1 civil penalty. Item No. 22, it was marked
2 for discussion and it was decided to close
3 the case. Item No. 23 was marked for
4 discussion, also decided to close the case.
5 And Item No. 26, we had five respondents in
6 that case.

7 Respondent No. 1 was marked for
8 discussion. It was recommended for closure.
9 Respondent No. 2 was recommended for
10 discussion and \$500 civil penalty was
11 authorized. A formal hearing was authorized
12 with authority to settle for \$500.
13 Respondent No. 3 was recommended for closure.
14 It was approved. Respondent No. 4 was marked
15 for discussion and it was decided to close.
16 And then Respondent No. 5 was marked for
17 closure and approved for closure.

18 That is all the changes on the

19 residential/legal report.

20 I wanted to present to the Board --
21 can we get a motion to approve the home
22 improvement legal report and the residential
23 legal report as amended?

24 MR. BRODD: So moved.

16

1 MR. TICKLE: Second.

2 MS. DeBUSK: Do we have a
3 discussion?

4 All in favor, I?

5 THE BOARD: I.

6 MS. DeBUSK: Oppose?

7 THE BOARD: (Nonresponsive.)

8 MS. DeBUSK: Motion carries.

9 MS. GRAY: Part of the agenda
10 refers to a student loan default.

11 MR. TICKLE: We had some more
12 changes.

13 MS. GRAY: Do we need to
14 withstand the motion? I have more changes to
15 the residential/legal report.

16 MS. DeBUSK: Once she reads the
17 changes then should we make a motion to
18 whatever we're going to do to the rest of the
19 list or something as we've already voted on

20 it?

21 MR. TICKLE: We did 1 through
22 25. We need to do 26 through 81, I think.

23 MS. GRAY: Okay. We have
24 approved 1 through 26. The Board has

17

1 approved 1 through 26 on the
2 residential/legal report. There were
3 additional changes to the residential/legal
4 report from Items 27 through 81 of the legal
5 report. And I will list those now.

6 Item No. 56 was recommended to close
7 and flag. Well, it was recommended for a
8 formal hearing with authority to settle by
9 \$2000 and it was decided to close and flag.
10 Item No. 59 was changed from a \$250 civil
11 penalty to a \$500 civil penalty for both
12 respondents, Respondent No. 1 and 2.

13 Item No. 68, the recommendation was
14 authorize a formal hearing with authority to
15 settle by a voluntary revocation of license.
16 That was approved with the change of also
17 authorizing a \$5,000 penalty along with the
18 voluntary revocation.

19 Item No. 72 was changed from a \$250
20 civil penalty recommendation to a \$2000 civil
21 penalty recommendation. Number 79 was marked

22 for discussion and it was decided to close
23 the case.
24 Number 81 was marked for discussion

18

1 and it was decided to authorize a formal
2 hearing with a \$2500 civil penalty.
3 MR. BRODD: I make a motion that
4 we accept the changes to items 27 through 81
5 of the residential report.
6 MR. TICKLE: Second.
7 MS. DeBUSK: Do we need
8 discussion?
9 All in favor, I?
10 THE BOARD: I.
11 MS. DeBUSK: Oppose?
12 THE BOARD: (Nonresponsive.)
13 MS. DeBUSK: Motion carries.
14 Then we have Rules - Draft of
15 Proposed New.
16 MS. GRAY: Okay. The judge is
17 here. Do we want to continue?
18 MS. DeBUSK: We only have two
19 items left.
20 Do we need to do that in the form of
21 a motion?
22 MS. GRAY: I'll just tell the

23 Board I have eight amendments to rules and
24 one new rule to discuss and it could take

19

1 longer.

2 MS. DeBUSK: Do we have a motion
3 to adjourn the meeting?

4 MR. TICKLE: I make a motion to
5 adjourn the meeting to go to a formal hearing
6 and then reconvene after the formal hearing.

7 MS. DeBUSK: Second?

8 MR. SMITH: Second.

9 MS. DeBUSK: All in favor?

10 THE BOARD: I.

11 MS. DeBUSK: Motion carries.

12 So now we're off record.

13 (Off the record.)

14 (Resumption of Board

15 Meeting-Legal Report.)

16 MS. DeBUSK: We will start with
17 a roll call to my left.

18 MR. BRODD: Mark Brodd,
19 Knoxville.

20 MR. SMITH: Reese Smith,
21 Franklin.

22 MS. DeBUSK: Cindi DeBusk,
23 Knoxville.

24 MR. TICKLE: Ronnie Tickle,

1 Memphis.

2 MR. OWENS: Earnest Owens,
3 Memphis.

4 MS. DeBUSK: At this time I'm
5 going to turn the meeting over to Jenny Gray,
6 our staff attorney.

7 MS. GRAY: On the agenda I have
8 some drafts of amendments to the board rules
9 and I'm going to pass out packets with six
10 amendments, proposed amendments to the board
11 rules and one new rule that's at the end and
12 we'll save that for last.

13 The first amendment is amending rule
14 -- I don't know if you-all have your books
15 out -- 0680-01.09. And what it's doing is --
16 I bolded the changes. It adds limited
17 liability company to the change of mode of
18 operation. I've been advised by the director
19 that that's been needed for some time because
20 obviously we have statutes in Tennessee
21 regarding the organization of an LLC and we
22 have licensed LLCs as contractors.

23 And then No. 5 is bolded. It's a
24 completely new section. I believe at the

1 January 2010 meeting it was mentioned for
2 there to be a 90-day time period allowing a
3 licensee to submit the paperwork for the
4 change of mode of operation and I'll give you
5 a minute to read the wording of that.

6 MR. SMITH: This says they can
7 finish the work, but they can't bid on any
8 work?

9 MS. GRAY: In the new name,
10 correct, until the new company has been
11 approved by the Board. I'm open to comments.
12 I just heard the 90-day suggestion in the
13 January meeting and tried my best to word it
14 the way I thought would be needed to be fair
15 to the licensees, but we need, I've heard in
16 the January meeting, it seems a time limit
17 for these things to happen. And I believe
18 there's a time limit already in the rules on
19 another aspect. It's not a change of mode.

20 MR. SMITH: It's QA.

21 MS. GRAY: Yeah, it's the QA,
22 which is also three months. And that may
23 have been where the 90-day suggestion came
24 from. So if I could just ask that the Board

1 make a motion to accept this draft with
2 possible small changes. If there's anything
3 substantiative I would represent it to the
4 Board, but as for grammar or typos, we've
5 had, like again the flood and I don't know if
6 everything is exactly as it would be, but
7 like I said if it's a substantiative change I
8 would represent it to the Board.

9 MR. BRODD: So moved.

10 MR. OWENS: Second.

11 MS. DeBUSK: Discussion?

12 All in favor?

13 THE BOARD: I.

14 MS. DeBUSK: Oppose?

15 THE BOARD: (Nonresponsive).

16 MS. DeBUSK: Motion carries.

17 MR. SMITH: I might ask that we
18 send a copy of this to the Board members who
19 aren't here.

20 MS. GRAY: Amendment No. 2, very
21 simple. If you read the very top, it tells
22 exactly what it is doing. There was a
23 reference, this is the penalty section of
24 0680-01-.19. It referred to 118(e) for the

23

1 \$5,000 penalty and basically we're just

2 changing it to 62-6-120(d), which is the
3 correct reading of the statute now.

4 MR. SMITH: Move for approval of
5 Amendment 2.

6 MR. BRODD: Second.

7 MS. DeBUSK: Discussion?

8 All in favor, say I?

9 THE BOARD: I.

10 MS. DeBUSK: Opposition?

11 THE BOARD: (Nonresponsive.)

12 MS. DeBUSK: Motion carries.

13 MS. GRAY: Amendment 3 is
14 regarding the Appendix A Rule 0680-01-.16
15 regarding the classification systems for the
16 electrical contracting classification. There
17 are two classifications, D and J, which are
18 not -- if you'll look in your book, you'll
19 see it in there, in your book.

20 MS. DeBUSK: Sound and intercom
21 systems, fire detection and so on and then
22 Jay's fire detection system, signal burglar
23 alarm and security systems.

24 MS. GRAY: The point of this

24

1 amendment is a request, and if you'll flip to
2 the next page it's a memo from the alarm
3 contractor board. They requested, I believe,

4 in 2004 for the contractor's board to take
5 some type of action to stop contractors with
6 this classification from doing work under the
7 impression that they were excluded from being
8 licensed with the alarm contractors board.
9 And it is misleading or it was.

10 The alarm contractors board has since
11 passed the rule that you'll see on this memo
12 saying these are the only contractor
13 exclusions. And if you'll look 3-C it says
14 such exclusions only available to contractors
15 who hold mechanical, HVAC and electrical.
16 But as of right now people still hold the B
17 and J classifications and they think they ask
18 fairly often if they are excluded from the
19 alarm contractor license.

20 MS. DeBUSK: This says E and E-B
21 only. Only available to hold such exclusion.

22 MS. GRAY: And it's only
23 effective --

24 MS. DeBUSK: Electrical building

25

1 constructions.

2 E is electrical contracting and B is
3 electrical work for building constructions.

4 So under the alarm systems board they're

5 saying those are the only two that are --

6 MS. GRAY: And then if you'll
7 read A, not only do you have to have those,
8 but that only has to be 50 percent of your
9 gross annual revenue.

10 MR. SMITH: Who's asking us to
11 change our book?

12 MS. GRAY: The alarm contractors
13 board. And if you'll read the memo --

14 MS. DeBUSK: And I had a meeting
15 with the assistant commissioner concerning
16 this, and the meeting was canceled obviously
17 due to the flood, to discuss this.

18 MS. GRAY: So does the Board
19 wish to move it to the next meeting until
20 they discuss again with the commissioner?

21 MS. DeBUSK: Yes, absolutely.

22 MS. GRAY: Okay. You want to
23 make a motion?

24 MS. DeBUSK: So we make a

26

1 motion. Do we have a motion that we will
2 hold off on Amendment No. 3 until the next
3 board meeting?

4 MR. BRODD: So moved.

5 MR. SMITH: Second.

6 MS. DeBUSK: In favor?

7 THE BOARD: I.

8 MS. GRAY: Amendment 4 is this
9 Rule 0680-01-.25, was enacted in June of
10 2009, concerning operating in the name in
11 which you are licensed. It adds the 90-day
12 limit much like the change of mode time limit
13 giving them 90 days to request a name change.
14 And I'll let you.

15 MS. DeBUSK: Can you operate in
16 an individual name or does it have to be a
17 company name?

18 MS. GRAY: No, you can operate
19 in an individual name. But if you are an
20 individual and you are licensed in your
21 individual name you can't enter into
22 contracts as your company.

23 So basically, this is just the same
24 premise as the change of mode of operation

27

1 time limit. It's just to give them a window
2 of time to make the change.

3 MR. SMITH: We've never really
4 had a specified time limit is what you're
5 saying?

6 MS. GRAY: Correct.

7 MR. SMITH: I move for approval

8 for Amendment 4.

9 MS. DeBUSK: Do we have a

10 second?

11 MR. BRODD: Second.

12 MS. DeBUSK: Group discussion.

13 Everyone okay with that.

14 All in favor say I?

15 THE BOARD: I.

16 MS. DeBUSK: Opposed?

17 THE BOARD: (Nonresponsive.)

18 MS. DeBUSK: Motion carries.

19 MS. GRAY: Amendment 5, I'm

20 going to set aside because it goes with the

21 new rule which is if you'll see, I printed

22 out statute 62-6-406. If you'll go to page 2

23 of the statute and refer to G-1 through 3.

24 And that's going to show you what this new

28

1 rule is based on. And basically the Board is

2 required by statute in G-1 to formulate a

3 system for inspectors when the plumbing

4 inspection services are not provided by a

5 municipality or county to report any problems

6 they may encounter with the workmanship or

7 conduct of a limited license plumber.

8 The proposed rule -- I'm sorry. If

9 you'll flip through. I'm skipping over

10 Amendment 5 and 5 right now. I'm skipping to
11 the new rule, which is the last two pages of
12 your packet. I basically used the wording
13 from the statute stating what the Board is
14 required to do. The rule also states that
15 these inspections will be performed by
16 inspectors with the State Fire Marshal's
17 Office. At this time I am not sure if that
18 is going to work. It was going to be part of
19 the residential inspections that go into
20 effect in 2011. And I will admit right now
21 I'm not sure on how to word this. I really
22 want to open it up for discussion if
23 possible.

24 MS. DeBUSK: Why is plumbing

29

1 coming under the State Fire Marshal's
2 inspection?

3 MS. GRAY: Well, we as of right
4 now, our inspectors inspect based on a
5 complaint. So this is different. This is
6 essentially involving pulling a permit
7 because I don't know how else to jump to an
8 inspection of limited license plumbers
9 without making them pull a permit, which is
10 --

11 MR. SMITH: With the county?

12 MS. GRAY: -- with the
13 municipality or county. Now, we know that
14 many, many municipalities and counties don't
15 accept LLP.

16 MR. SMITH: Or don't have
17 permitting.

18 MS. GRAY: Or don't have
19 permitting. So I need for the Board to
20 discuss this basically at this meeting
21 because this requirement is coming up in
22 January of 2011.

23 MR. SMITH: Did the state board
24 for licensed contractors implement some

30

1 system for plumbing inspection? It was not
2 provided by the municipality.

3 MS. GRAY: Correct.

4 MS. ROBERTS: No initial LLP
5 law.

6 MS. GRAY: The fire marshal has
7 enacted a law that's going into effect 2011.
8 It's going to inspect one and two-room
9 townhouses and that is going to include
10 electrical and plumbing. So that was just an
11 idea thrown out there for those same
12 inspectors that are being contracted with

13 right now to do those inspections and to also
14 do these inspections. I have to say for
15 convenience sake if there is another idea.

16 MR. TICKLE: Why can't we get a
17 licensed plumber in that area to be the
18 inspector rather than put it under the fire
19 marshal's responsibility?

20 MS. GRAY: We can and that's
21 exactly the kind of thing I'm looking for. I
22 just need --

23 MR. TICKLE: There will be some
24 licensed plumber in that county that would do

31

1 this on a fee basis. And that way you
2 wouldn't have to work. As a fire marshal
3 he's not going to know the correct joints
4 that the plumber made or anything like that.

5 MS. GRAY: Well, the fire
6 marshal inspectors that we're talking about
7 are going to inspect plumbing.

8 MR. TICKLE: I understand. But
9 I guarantee you they don't know what they're
10 doing.

11 MS. GRAY: Well, no. I mean, I
12 agree after a meeting I had just yesterday,
13 which was too late to go in and amend my

14 draft here that the State Fire Marshal
15 inspectors are most likely not going to be
16 the ones to do this and now that's been
17 concluded.

18 MS. DeBUSK: The State Fire
19 Marshal, will they have a new law going into
20 effect in 2011 that they'll inspect
21 electrical and plumbing in two-room town
22 homes?

23 MS. GRAY: It's part of one and
24 two-room townhouses. It's part of the code

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1 adoption that they did, that the State did.

2 The problem is to pay for the
3 inspectors for the limited licensed plumber.
4 And to pay for it they would have to pull a
5 permit. And to have to pull a permit it has
6 to be in a county that has an agency that
7 issues permits.

8 MR. TICKLE: It would be easier
9 for a fire person to probably inspect
10 electrical, easier than it would be for him
11 to inspect the plumbing. Because fires are
12 caused by electrical. They're not caused by
13 water. So I can see --

14 MS. GRAY: But did you notice in
15 Part 2 of G-2 it says that this inspection

16 happens no later than the time of the rough
17 electrical inspection. So, you know, it
18 doesn't force anything, but, you know, that
19 could possibly all be done at the same time.
20 But if that's your opinion I can definitely
21 redraft it.

22 MR. TICKLE: I just think you
23 would be better off finding a licensed
24 plumber in that area of master plumbers,

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1 somebody like that. Surely to goodness
2 there's an active plumber in ever county.

3 MS. GRAY: That would work for
4 the Board directly?

5 MR. TICKLE: Yeah, I mean he
6 would have his own job, but he would be on a
7 fee basis.

8 Wouldn't you think, Reese?

9 MR. SMITH: Yeah, but has this
10 been funded by the State?

11 MS. GRAY: Not that I'm aware
12 of.

13 MR. TICKLE: Licensed Board of
14 Conduct?

15 MS. GRAY: Not that I'm aware
16 of.

17 MR. TICKLE: I'm not talking
18 about us. I'm talking about the State. What
19 we had in Millington everybody quit. So we
20 didn't have an inspector so we had to get fee
21 inspectors.

22 MR. SMITH: And they do that for
23 electricals statewide now.

24 MR. TICKLE: So we had fee

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1 inspectors come in and inspect and our city
2 paid the fee inspectors is what they did.
3 And a lot of their inspectors were retired
4 inspectors that came in from a municipality
5 like Memphis. We had an electrical guy who
6 retired. We had a plumber guy who retired.
7 They were retired. They weren't working, but
8 they knew their work. So they came in and
9 inspected and they would give us a little tag
10 saying everything was fine.

11 MR. SMITH: How did you ask for
12 an inspection?

13 How did you request an inspection
14 through the state?

15 MR. TICKLE: I went to the city,
16 and the city, I put the monkey on their back
17 so then they had to hire somebody to come in
18 and make our inspections.

19 MR. SMITH: Okay. So you just
20 went back through.

21 MR. TICKLE: Yes, we went back
22 through the municipality and then they hired
23 somebody to come in to correct it.

24 MS. GRAY: It might be helpful

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1 to isolate the exact counties that accept the
2 LLP or municipalities and look at each one
3 individually to see which ones have existing
4 permanent agencies now, which ones don't,
5 what's feasible. I mean, this is definitely
6 something that I wanted to bring to the
7 Board's attention.

8 MR. TICKLE: I just don't see
9 how a fire marshal can inspect plumbing. If
10 it's a sprinkler system I could see that.

11 MS. GRAY: Uh-huh.

12 MR. TICKLE: But I can't see him
13 inspecting --

14 MS. GRAY: It's not feasibility,
15 like I said after the meeting I had
16 yesterday. It's not feasible anyway because
17 the new law does not cover renovations. It
18 doesn't cover -- renovations pretty much did
19 it in for me just because the licensed

20 plumbing is normally going to be, you know, a
21 bathroom or kitchen remodeling or something
22 like that.

23 MR. BRODD: Do we need to table
24 this until we know more about it?

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1 MS. GRAY: Well, I need to know
2 what you want to know about it because rules
3 take time and something needs to be in the
4 works basically is where I'm at. And I need
5 to know, you know, like I said, I can isolate
6 each LLP county and try to see what each
7 county is doing right now. I mean, I'm just
8 kind of looking to you-all for any expertise
9 about it.

10 MR. TICKLE: I think if you
11 could isolate the county, then see if they
12 have a plumber there that they can get on a
13 fee basis there they would know what's going
14 on in relation to the plumbing.

15 MS. GRAY: Okay. Another part
16 -- I know nobody likes the State Fire Marshal
17 inspection, so I'll take that out. I mean,
18 that's not a problem and after my meeting
19 yesterday --

20 MS. DeBUSK: No, it's not that
21 we don't like them.

22 MR. TICKLE: It just that we
23 don't understand why they would be inspecting
24 something that's really not there.

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1 MS. GRAY: No, I'm just saying
2 it's not feasible. It was just something
3 that was suggested two months ago and it went
4 into my draft. And after my meeting
5 yesterday I discovered it is not feasible
6 either way. So that part aside, the rest of
7 the rule I have tried to keep general, but
8 specifically all I did was say these
9 inspections are required. You're required to
10 request the inspection as a limited license
11 fund, you're required to get these
12 inspections and upon a report to the Board
13 that the work is -- and this is right under
14 the statute -- satisfactory or unsatisfactory
15 and requiring remedial work then they could
16 be found to be, you know, in this conduct and
17 be disciplined by the Board under the
18 statute. I mean, basically that is -- I
19 tried to keep it as general as I could
20 because I wasn't sure where we were really
21 going with it. Basically, the main problem
22 right now is trying to figure out who's going

23 to do the inspections.

24 MR. TICKLE: The Veterans

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1 Administration has inspectors to go on our
2 jobs. They get paid X number of dollars plus
3 mileage and they have an area that they'll
4 cover. They'll cover, like, from Memphis to
5 right outside of Nashville if they want to go
6 that far. But Nashville is fortunate enough
7 that they've got people there because that's
8 where the central VA office is and they'll
9 branch out from that point, go to Franklin,
10 and all in that area. Then you've got some
11 in Knoxville that can go from Knoxville and
12 Cleveland and in that area as far as
13 inspections go. That's an inspector on a fee
14 basis plus mileage. And I don't know why
15 they couldn't find some plumbers because
16 you've got a lot of people who are retired
17 and stuff who would probably be more than
18 happy to do this, especially in these times
19 that we're in right now.

20 MS. GRAY: Okay. Unless anybody
21 sees anything else with the rules that's just
22 not making sense, I'm going to take it back,
23 redraft it, try to find out a little bit more
24 about the fee basis possibility. And

1 Amendment 5, all that is it's going to be an
2 amendment to 0680-04.01, which is the
3 definition section of the limited license
4 plumber rules and it takes it right out of
5 the statute what limited license plumbing
6 work is. I didn't see any reason to change
7 that because it's already in the statute.

8 Amendment 6 -- well, I don't know.

9 MR. SMITH: We can implement
10 this. I just can't imagine the State funding
11 it right now. So then it's not going to go
12 into effect.

13 MS. GRAY: I agree there are
14 problems.

15 MR. SMITH: Okay. Amendment 6.

16 MS. GRAY: Does the Board want
17 to make a motion on Amendment 5 and this new
18 rule? Are we moving it to the next meeting?

19 MS. DeBUSK: What's the pleasure
20 of the Board on this one?

21 MR. SMITH: What does Amendment
22 5 say?

23 MS. GRAY: Amendment 5 is just
24 adding, amending the definition section of

1 the limited license plumber rules, adding the
2 definition of limited license plumbing work,
3 which is right out of the statute. The new
4 rule was not going to make sense without that
5 definition.

6 MR. SMITH: It doesn't have
7 anything to do with the inspections?

8 MS. GRAY: Not necessarily. If
9 you're going to create a new system -- I
10 mean, upon the final draft of this rule, I
11 would probably have more definitions because
12 that's just the proper way to write rules.
13 You want to let everybody know what things
14 means. So the Board may just want to move to
15 take Amendment 5 and the new proposed
16 plumbing rule and move them to the next
17 meeting just because I may add to the
18 definition section.

19 MR. SMITH: Move to defer one
20 meeting.

21 MR. TICKLE: Second.

22 MS. DeBUSK: All in favor, I?

23 THE BOARD: I.

24 MS. DeBUSK: Any opposition?

1 THE BOARD: (Nonresponsive.)
2 MS. DeBUSK: Motion carries.
3 MS. GRAY: Amendment 6 is an
4 amendment to 0680-1-.24, bidding procedures.
5 It's based on, if you'll flip the page, the
6 two public chapters that you see there, which
7 created the requirement that masonry
8 contractors where the total cost in the
9 masonry portion of the construction project
10 exceeds \$100,000 materials and labor that
11 contractor be included on the outside of the
12 bid envelope and in the submission of an
13 electronic bid.
14 MR. SMITH: Now, is that a new
15 law?
16 MS. GRAY: Yes. It is as of the
17 time I --
18 MS. DeBUSK: Is that proposed or
19 a submission?
20 MR. TICKLE: Proposed.
21 MS. GRAY: It's passed.
22 MR. SMITH: For July 1?
23 MS. DeBUSK: Well, it says it
24 passed.

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1 MS. GRAY: It says shall take

2 effect upon passage of the public welfare
3 requiring it. So I'm not sure. I may be
4 able -- one public chapter says July 1st,
5 2010. So I would assume both of them go into
6 effect. What they both do essentially like I
7 said is they required on the outside of the
8 envelope and they take out the geothermal
9 classification that was required under 119
10 before. I don't know if anybody is familiar
11 with that.

12 MR. SMITH: So you're just
13 cleaning up our part of the law to match --

14 MS. GRAY: The new law. And the
15 only other thing and I may not have it in
16 front of me. The new law requires like I
17 said the masonry contractor with portions
18 over a hundred thousand to be listed. It
19 takes out the geothermal.

20 MR. SMITH: Okay. I understand
21 that section. I didn't realize it had
22 passed. So we don't have much choice.
23 That's a new law, it's going into effect July
24 1 and I move we approve Amendment 6.

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1 MR. TICKLE: I thought we
2 opposed this.

3 MR. SMITH: We did.

4 MS. DeBUSK: We did. The Board
5 sent a letter.

6 MS. GRAY: I really don't have
7 an understanding about what happened.

8 MR. OWENS: You mentioned
9 geothermal. Now, what are you saying, that
10 we can take that out of his masonry bid? I
11 mean, when you said geothermal, I'm assuming
12 you're talking about insulation. Now, that
13 doesn't have to be a part of his bid. He can
14 take that out of his masonry bid. Is that
15 what you're saying?

16 MS. GRAY: Well, up until now,
17 I'm sorry -- it says: "Prime contractor
18 bidders who are to perform the electrical,
19 plumbing, heating, ventilation, and air
20 conditioning or the geothermal heating and
21 cooling must be so designated upon the
22 outside of the envelope." It then says at
23 the top: "Any person or entity involved in
24 the prep of the invitation to bid shall

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1 direct name, license number, expiration date,
2 license classification of the contractors
3 applying to bid for electrical plumbing,
4 heating, ventilation and air conditioning

5 contracts and for each vertical closed loop
6 geothermal heating and cooling project."

7 What the new law does is throw in the
8 masonry contractor portion language and takes
9 out that vertical closed loop geothermal
10 heating and cooling part of the language. So
11 basically, what it is is naming subs that
12 have to have licenses and now it's not
13 requiring that anymore for the loop
14 geothermal, which I'm not really clear about
15 that word.

16 MR. SMITH: Okay.

17 MS. GRAY: One more thing that
18 I'm doing based on the new law is in the
19 classifications for licenses, which is
20 0680-1-.16, it makes sense and I thought I
21 had this printed out. I apologize. On page
22 66 under building categories, No. 9 masonry.
23 It makes sense there to put effective
24 January 1st, of 2011, a masonry examination

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1 will be required. That's what --

2 MR. TICKLE: No, I can tell you
3 that, no.

4 MS. GRAY: I don't understand
5 how else --

6 MR. TICKLE: I mean, that's

7 terrible. That's terrible. If you do that
8 we're not going to have masons here.

9 MR. SMITH: It would be over a
10 hundred thousand dollars.

11 MS. DeBUSK: It has to be over a
12 hundred thousand dollars.

13 MR. TICKLE: Maybe I won't get
14 off too good, but I'm telling you.

15 MR. SMITH: Maybe not.

16 MR. TICKLE: Where does it say
17 they have to be tested?

18 MS. GRAY: I apologize. Carol,
19 the director and I had spoken about this and
20 my understanding is limited and I don't have
21 my paperwork with me.

22 MR. SMITH: Can this wait one
23 meeting?

24 MR. TICKLE: There're no more

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1 houses going to be built.

2 MS. GRAY: I don't see why it
3 couldn't wait. If we can go ahead and
4 approve Amendment No. --

5 MR. BRODD: Six.

6 MS. GRAY: -- six.

7 MR. BRODD: Move.

8 MR. SMITH: We haven't approved
9 six. Madam Chairman, I move for approval of
10 Amendment No. 6.

11 MS. DeBUSK: Can we second?

12 MR. TICKLE: Can you tell me
13 what No. 6 was? I think I put it in the
14 folder, but I'm not sure.

15 MS. DeBUSK: Well, the law goes
16 into effect --

17 MR. SMITH: The law that goes
18 into effect we don't have a choice. It was
19 passed on the 14th of April. Our rules have
20 to reflect what the law says. And if it says
21 that masonry contractors over a hundred
22 thousand have to be on the outside of an
23 envelope. That's the new law as of July 1.

24 MR. TICKLE: But I don't see

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1 anything in there where it says they have to
2 be tested.

3 MS. GRAY: I would like to
4 request to wait until the next meeting to
5 discuss that because I have a limited
6 understanding.

7 MS. DeBUSK: To discuss testing?

8 MS. GRAY: Yes, to discussing
9 the required examination. I do believe that

10 there is a reason, but I cannot state it
11 right now.

12 MS. DeBUSK: Do we have a second
13 to Reese's motion?

14 MR. BRODD: Second.

15 MS. DeBUSK: Do we have any
16 discussion?

17 All in favor, I?

18 THE BOARD: I.

19 MS. DeBUSK: Opposition?

20 THE BOARD: (Nonresponsive.)

21 MS. DeBUSK: That motion
22 carries.

23 MS. GRAY: I believe that is all
24 I have for the Board business unless you-all

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1 have any questions.

2 MR. TICKLE: Are we in new
3 business still?

4 MS. GRAY: I'm sorry. I'm
5 sorry. I'm sorry. I'm sorry. One thing,
6 one more thing. I've been asked to get
7 approval from the Board to accept the process
8 by which the Tennessee Student Assistance
9 corporation notifies the Board when somebody
10 is in default of a student loan. And what

11 it's called -- and she's going to pass it out
12 -- is a notice of suspension. I believe the
13 Board already does this with child support
14 cases, but I'm not positive.

15 MR. SMITH: Who asked you to do
16 this?

17 MS. GRAY: My superiors.

18 MR. SMITH: In the department?

19 MS. GRAY: Yes. And basically,
20 it's a notice of suspension and they would
21 handle the administrative proceedings and
22 it's all still governed by the Administrative
23 Procedures Act just like we are and they
24 begin working with the person, the licensee,

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1 and after coming to a satisfactory
2 arrangement they then send the order to
3 terminate suspension just notifying the Board
4 that something has been worked out, whether
5 it's a payment plan or it's been paid off.
6 And what allows it is the statute that's
7 attached to all this and basically --

8 MR. SMITH: Okay. Well, a guy
9 renews the license for two years and he comes
10 into default on his student loan, that could
11 affect his financial statement. Is that the
12 premise here?

13 MS. DeBUSK: While we're
14 involved? I was just thinking, where do we
15 draw the line?

16 MS. GRAY: Okay. Let me just
17 say. We already have in statute and if
18 you'll read in front of you 561312 Part A:
19 Upon receiving a copy of a final order from
20 the TSAC that any person that's defaulted on
21 a loan that the Board shall suspend, deny, or
22 revoke. So it's already required statute.
23 And what I have been --

24 MR. SMITH: Defaulted on the

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1 student loan?

2 MS. GRAY: On the student loan.

3 MS. DeBUSK: So this is already
4 in effect?

5 MS. GRAY: Well, what I'm trying
6 to make sure that you-all approve of is them
7 handling the administrative proceeding
8 portion of it.

9 MR. SMITH: I don't want them to
10 handle it. I want the Board to handle it.

11 MS. DeBUSK: Who's them?

12 MS. GRAY: The Tennessee Student

13 --

14 MS. DeBUSK: That's not for them
15 to get involved.

16 MS. GRAY: -- Assistance
17 Corporation. I mean, basically --

18 MR. TICKLE: They don't need to
19 get involved in our bid licensing.

20 MS. GRAY: Well, it's already
21 happening with child support.

22 MR. TICKLE: Well, I understand
23 child support.

24 MS. GRAY: May i have the

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1 Board's opinion about why it would be
2 appropriate for child support agencies to
3 handle the administrative proceedings and not
4 them. They're all going to be governed by
5 the same law, which is the Administrative
6 Procedures Act?

7 So they're going to have the same --

8 MR. SMITH: Who's going to take
9 their license?

10 MS. GRAY: Well, it's suspended.

11 MR. SMITH: Who's going to
12 suspend, revoke, or deny their license?

13 MS. GRAY: You are.

14 MR. TICKLE: Then we ought to
15 have a say so in what's going on.

16 MS. DeBUSK: Well, what else can
17 fall under that board that you just said.
18 You said child support, now student loans.
19 Whom else falls under that?
20 MS. GRAY: Well, let's see. It
21 says --
22 MR. SMITH: I'm not sure you've
23 done your homework.
24 MS. DeBUSK: Are we opening the

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1 door for other things to --
2 MS. GRAY: -- "Each board
3 commission or agency referred to as the
4 licensing authority in this section attached
5 to the division of regulatory board shall
6 suspend, deny, or revoke the license of or
7 take other appropriate disciplinary action
8 against any person who has defaulted on a
9 repayment or service obligation under any
10 federal family education loan program, the
11 Federal Higher Education Act of 1967 as
12 amended, a student loan guarantee
13 administered by TSAC or any other state or
14 federal educational loan or service
15 conditional scholarship program."
16 MR. SMITH: And that's a state

17 of Tennessee law that's been passed?

18 MS. GRAY: Right. And I have
19 attached it.

20 "Each board, commission, committee,
21 agency, or other" -- okay, let me continue.
22 "Each board, commission, committee, agency,
23 or other governmental entity created pursuant
24 to this title shall accept any determination

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1 of default from TSAC or guaranty agency after
2 TSAC or the guaranty agency has afforded a
3 debtor an opportunity to be heard in
4 accordance with subdivision B2. And the
5 board, commission, committee, agency, or
6 other governmental entity shall rescind any
7 disciplinary action and restore any license
8 or certificate upon receiving notice from the
9 corporation or guaranty agency that the
10 person has agreed to serve the person's
11 obligation or is in compliance with an
12 approved repayment plan."

13 MS. DeBUSK: Okay, we do child
14 support. And we add student loans. So if
15 someone has a judgment against them for
16 default of payment to an individual for
17 whatever reason, can that fall under here as
18 well?

19 MS. GRAY: No. I mean, it says
20 defaulted on a repayment or service
21 obligation under a federal family education
22 loan program. I mean, it appears it has to
23 be a federal loan program or one administered
24 by the TSAC.

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1 MS. DeBUSK: I'm just trying to
2 wrap my mind around it. If we open it up to
3 this, which you've said is what they do, are
4 we opening for other things to come in as
5 well is what I'm trying to get at. I don't
6 know how to explain what those other things
7 might be.

8 MR. TICKLE: Like if you default
9 on a VA loan.

10 MS. DeBUSK: Okay, good.

11 MR. TICKLE: If you default on
12 VA loan, is that going to come under scrutiny
13 under this. Maybe not under this, but if
14 somebody else is going to insert something
15 else it's going to take away from them. For
16 instance, if I'm a veteran and I default on a
17 loan, but I have an electrical license. Now,
18 all of a sudden I'm a bad dude. Are you
19 going to jerk my license? If you're going to

20 jerk my license then I have no way to pay
21 back my loan if I decided I was going to pay
22 back my loan.

23 MS. DeBUSK: And I understand
24 you're only dealing with the student loans.

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1 I get that. That's all you care about right
2 now. But if we open it to student loans, are
3 we opening it up to VA loans?

4 MS. GRAY: I have not done my
5 homework on other agencies being able to
6 order the board to suspend the license. I
7 don't believe that's necessarily the right
8 way to word it, but basically they, upon
9 notice we agree to suspend the license until
10 they have worked a payment plan out. And it
11 appears that --

12 MR. TICKLE: If this has gone
13 into effect now, we're looking at who's going
14 to administer it. That's really what you're
15 looking for us to say, are we going to
16 administer or are we going to let the student
17 loan people administer the problem. Is that
18 what you're asking for?

19 MS. GRAY: Correct. I don't see
20 how the Board could govern over those matters
21 under their statute anyway. I don't see how

22 --

23 MR. TICKLE: I don't think we
24 can regulate what they do. The only thing we

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1 can do is if we were told that they had
2 defaulted then we would have to make a
3 recommendation to suspend their license, but
4 they would have to tell us that there was a
5 problem.

6 MR. SMITH: Or take other
7 appropriate disciplinary action other than
8 suspend, deny, or revoke so we could flag the
9 file.

10 MR. TICKLE: We could flag the
11 file, right. But that's what it appears.

12 MS. GRAY: This notice is sent
13 to the licensee and this is after we got
14 notice of a default.

15 MS. DeBUSK: This has already
16 happened?

17 MS. GRAY: Right.

18 MR. BRODD: So you're reading
19 paragraph F here. It doesn't look like we
20 suspend the license. It looks like TSAC
21 tells us this license is suspended until they
22 notify us in the future to reinstate it. We

23 get a \$50 fee to reinstate it.

24 MS. DeBUSK: What do you think,

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1 Telise? What's your thought on this?

2 MS. ROBERTS: If it operates
3 like the child support, we don't have very
4 many, ten maybe. And there's been some that
5 have caught up on their child support. And
6 they're very prompt about notifying us when
7 they are working things out and the licenses.
8 We just change the status. Student loans are
9 a lot different from child support, I know.
10 Child support works well the way they have it
11 set up.

12 MR. TICKLE: But what's going on
13 right now I can put this in kind of
14 perspective. I've got a nephew in heating
15 and air conditioning school. He's got a
16 grant of \$9000 to go to school. He's
17 supposed to pay that back. When he gets out
18 he's going to think that he's going to be
19 able to come up and get a heating and air
20 conditioning license from us. And he's going
21 to go out and he's going to start working and
22 start making money. But if he decides that
23 he's not going to pay back his grant that
24 he's received, then we're going to cut him

1 off or suspend his license or flag or
2 whatever until he pays back or makes some
3 kind of arrangements to pay back that loan.

4 MS. GRAY: I think that a TSAC
5 is the person that's suspending the license.
6 I don't think it's the board.

7 MS. DeBUSK: Because I can
8 envision a lot of student loan defaults. Not
9 as many as in the child support division, you
10 know. But I can envision a lot.

11 MR. TICKLE: There's a lot of
12 this because right now there's a lot of
13 schools out here that guarantee you work when
14 you're going through that stuff.

15 MS. DeBUSK: But what if you
16 have a student loan when you're in your 20s
17 and you're 60 now and you're working as a
18 contractor and you've never paid your student
19 loan back. I mean, you could go back years
20 and years I can see this being -- I mean,
21 we're all for child support. I tend to agree
22 that a student loan is a lot different.

23 MS. GRAY: The TSAC supplies a
24 notice to the licensee to be served

1 personally by certified mail. It states that
2 the license or certificate will be suspended
3 or denied, revoked 90 days after service. So
4 they have 90 days upon that notice to pay the
5 entire debt, enter in a payment plan or
6 comply with the payment plan previously
7 entered into or request a hearing.

8 So they get the personal notice, they
9 get 90 days to work something out, they get a
10 chance for a hearing, and according to the
11 statute we have to suspend it upon their
12 order what they find.

13 MS. DeBUSK: I just don't know
14 the urgency of a student loan. I understand
15 the urgency of child support, you're feeding
16 kids, but what's the urgency of a student
17 loan?

18 MR. TICKLE: The money that the
19 government is putting out or the state is
20 putting out. They want their money now.
21 Everybody is short of money and this is the
22 best way to get it.

23 MR. SMITH: But we can't suspend
24 their license without going to the Supreme

1 Court or somebody gets out there waving an
2 appeal to the public. All they've got to do
3 is miss two payments.

4 MR. TICKLE: Two payments. You
5 might as well chalk it up to bad experience.

6 MS. DeBUSK: What are you asking
7 us to do?

8 MS. GRAY: It's my impression
9 that this is already required by the Board,
10 that the license is suspended without the
11 Board's say so and it was just to be brought
12 in front of the Board.

13 MR. SMITH: That's already the
14 law that was passed.

15 MR. TICKLE: For information.

16 MS. GRAY: If not approval for
17 your information.

18 MS. DeBUSK: Okay.

19 MS. GRAY: And if you want to
20 make a statement about it in the meeting
21 minutes.

22 MS. DeBUSK: I'm not sure we
23 need a vote on this since it's already
24 approved.

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1 MS. GRAY: And that may not be

2 appropriate, a vote.

3 MS. DeBUSK: Okay. So noted
4 FYI, for student loans.

5 MS. GRAY: And that is all I
6 have for the Board.

7 MS. DeBUSK: Okay. New
8 business?

9 MR. TICKLE: I've got a couple
10 of things. With the requirement that came in
11 effect April of this year regarding lead
12 paint. Due to the plugs and everything, how
13 is that being handled by the State or by
14 municipalities and the fact that if you go
15 into a building that has a resident, a
16 residential building -- I'm going to use that
17 for an example -- that has lead paint, you've
18 not had the courses, and you don't have the
19 proper training. But you're going in there
20 and repairing that. According to law is if
21 you do that you can be fined \$37,000 a day.

22 There's a lot of people who have
23 taken the course and are licensed and are
24 able to do that, yet they're not being

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1 notified by municipalities that there is a
2 problem. And what's happening is a lot of
3 these people who were these floods victims,

4 I'm going to use Millington, Tennessee as a
5 good example. They're just going in, they're
6 repairing their stuff themselves or hiring
7 somebody off the street to come in. Now,
8 that's a violation in my opinion.

9 The second thing is these people who
10 are hiring these people to come in and fix
11 their houses, most of them aren't licensed.
12 Yet at some point in time somebody is going
13 to be griping. And when that gripe comes in
14 it's going to come up to this board. How are
15 we going to handle that?

16 And then another thing that's going
17 on is that FEMA, it appears that we've got
18 some churches out there that are saying we're
19 going to do all the work for you for free,
20 yet they're not licensed. If they're going
21 to go do the work they're going to get people
22 in their congregation to go do the work,
23 which aren't licensed and who knows what it's
24 going to be put back at.

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1 Who knows what's going to happen to
2 the rates of the mortgage companies who have
3 a mortgage on these houses. And then too, I
4 mean, some of these churches are getting

5 kickbacks from FEMA for doing that now.

6 Now, how are we going to address all
7 of that? I know that's a lot to handle in
8 this one little spill. And I'm just talking
9 about here. Nashville's got a whole
10 different ball game. It's going to be a
11 whole lot worse than what I just said. And
12 there's other areas around the state.
13 There's going to be a problem and somebody
14 needs to gear up for it. We need to be
15 figuring out how we're going to address these
16 problems. And the powers to be should have
17 already thought about this instead of
18 somebody like me thinking about it. And I'll
19 leave that to my chairman to bring forth.

20 MS. DeBUSK: Well, I'm not so
21 sure we have those answers at this moment. I
22 guess we'll have to handle it case by case.

23 MR. SMITH: Well, in Nashville
24 you've got to pull a building permit and you

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1 have to have inspections no matter plumbing,
2 electrical.

3 MR. TICKLE: They're not doing
4 that. In our municipality here in Millington
5 they're saying we're not going to require you
6 to go get a permit. We're just going to note

7 that you've got a problem.

8 MR. SMITH: They are in middle
9 Tennessee. I guess an owner can pull a
10 permit. You've still got to have an
11 electrical inspection, plumbing, no framing.

12 MS. ROBERTS: I think they
13 waived the fees for that.

14 MR. TICKLE: Yeah, the fees have
15 been waived. So I'm just wondering. I'm
16 really concerned about that as to how things
17 are going and then a lot of unscrupulous
18 activities I think are going on now.

19 I myself, I mean, we've got probably
20 five or 600 people affected in our community,
21 but I didn't get but three calls. I'm about
22 the only licensed contractor out there. And
23 Earnest, Earnest hasn't even gotten a call.
24 I guess I'm a whole lot more fortunate than

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1 he is. I mean, you would think that somebody
2 would be calling whether we just have a dry
3 run to go out and say what do you think this
4 is going to be instead of all of a sudden
5 tearing stuff down and going up and start
6 putting stuff back together again. It just
7 all doesn't compute.

8 And then especially if you've got
9 electrical because there are a lot of
10 electrical problems in these things because
11 you've got your hot water tanks that are
12 flooding. You've got your appliances that
13 all got ruined. You've got a mold situation
14 that's occurring right now. It's occurring
15 in y'all's building downtown. And you're
16 supposed to be a mold specialist to go in
17 there and do that. That's not happening.

18 MS. DeBUSK: Telise, do you know
19 if advertisement is going to go out warning
20 the public to look for licensed contractors,
21 what questions they need to ask, and is there
22 going to be a campaign?

23 MS. ROBERTS: Well, the
24 department put out a press release.

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1 MS. DeBUSK: Did that only go in
2 Nashville or did that go statewide; do you
3 know?

4 MS. ROBERTS: Statewide
5 supposedly. I can check and make sure about
6 that.

7 MS. DeBUSK: Well, when you put
8 a press release that means the paper, they
9 can choose to pick it up or choose not to

10 pick it up.

11 MS. ROBERTS: I know it's all
12 over our Web site and then the code offices,
13 we've been talking to them a lot. They have
14 been working really well with us and trying
15 to make sure mason license that does come in.

16 MS. DeBUSK: What about paid
17 advertisement in both the papers? Do we have
18 a budget for stuff like that?

19 MS. ROBERTS: We used to.

20 MS. DeBUSK: We used to. I
21 understand.

22 MS. GRAY: And it has been
23 discussed in the department to try to
24 streamline the process for unlicensed cases

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1 and I can bring that to the next board
2 meeting. I think we've got a form now.

3 MS. ROBERTS: We do have a form
4 that we've been working on trying to expedite
5 some things on unlicensed activity.

6 MS. GRAY: To try to bypass each
7 person that's going to.

8 MS. DeBUSK: Would this new form
9 or new way of doing it, will that prevent
10 this silliness today?

11 MS. ROBERTS: It's
12 administrative. I mean, the only thing it
13 might get to is a safer investigator because
14 it's unlikely things will be done right there
15 instead of having to go through all the
16 hoops.

17 MR. TICKLE: I want to just ask
18 another question then. I probably already
19 know the answer. I'm going to take this case
20 that we had today. This is 2010. This case
21 goes back to 2004. Why did we even fool with
22 going that far back? You know, this guy
23 could have been dead. He's got a heart
24 problem.

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1 MS. DeBUSK: Or if they've never
2 been licensed, why did we go through the
3 whole situation when they're not licensed.

4 MR. TICKLE: There ought to be
5 some more pressing cases than something like
6 that. There might should have fallen under
7 closed file flag. I'm just using that for an
8 example. He would have been a perfect closed
9 file flag because he knew he was guilty.

10 MR. SMITH: This was a total
11 waste. Michael, don't bring any of those
12 back anymore or I'll leave like that guy.

13 But this was a total waste of your time and
14 the entire department.

15 MS. DeBUSK: Maybe Michael, you
16 can speak to -- you could be missing
17 something.

18 MR. SMITH: To run this guy
19 through, we're not going to get a nickel out
20 of it. It's a joke. I think on ones like
21 this you ought to come back to the Board and
22 say do you really want to have a formal on
23 this one.

24 MS. GRAY: That is one reason

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1 the legal court was so large this time is I
2 was going back to the older cases and closing
3 them.

4 MR. SMITH: This guy can't hear,
5 he's incompetent, he's broke. He's not going
6 to do anymore work.

7 MS. DeBUSK: Let's hear what
8 Michael has to say about the process.

9 MR. DRIVER: And I was going to
10 say, it is worth noting this docket was
11 originally seven cases.

12 MR. TICKLE: I'm sorry, what
13 now?

14 MR. DRIVER: This docket today
15 was originally seven cases. It wasn't just
16 that.

17 MR. TICKLE: Right. We
18 understand that.

19 MS. DeBUSK: Got it.

20 MR. DRIVER: So I'm not sure. I
21 understand your impression, but to be quite
22 fair to say that that was representative of
23 the ones being brought. In the past it was
24 my understanding that the Board had made

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1 several moves to go ahead and prosecute these
2 cases on unlicensed activity cases. You
3 know, that's the Board's discretion.

4 If the Board wants to go back and say
5 any case older than such and such we're going
6 back, I mean, that's up to you guys. But I
7 mean, you know, it's a big enough caseload
8 that I don't want to be dragging every single
9 case.

10 And like Jenny, she presented, I
11 think a lot of cases today on her legal
12 report that are of that type that is avoiding
13 that sort of thing.

14 MR. TICKLE: And that's kind of
15 what I'm saying. And you've been real good

16 about bringing that stuff to us and we've
17 been going through and saying yes to this and
18 this and that. We had 81 today and I think
19 the 81 we had today -- I don't even know, if
20 maybe we had two, maybe we said make it be a
21 formal hearing. But if there's a lot of
22 cases. It's a lot of work for y'all, and I
23 don't know what the situation is.

24 Let's just say you had 180 cases.

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1 And I'm just pretending that. You had 180
2 cases out there, laying out there that needs
3 to have a formal hearing. You might come
4 back with 81 of them the next time and bring
5 them like we did today and go through them
6 and then say okay, we need to nail this guy,
7 this guy, and this guy, get them up here in
8 front of us and then we'll go forward rather
9 than like this guy knew he was guilty.

10 MS. DeBUSK: I know. Usually,
11 when they know they're guilty they don't come
12 to the hearing.

13 MR. TICKLE: You wouldn't even
14 think he would have come. I don't even know
15 why he came. Like he was on vacation, you
16 know, come up here. But I think it did good

17 for these two gentlemen who've been ripped
18 off to understand that we're not a joke up
19 here, that we will do something. We may not
20 get the money, but I think flagging is a big
21 deal. If you're in business. I mean, he's
22 older and this is probably not going to
23 affect him. But if his son had been in
24 business with him -- I'm using that for an

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1 example -- in Southern Concrete Company, you
2 would bet that's a big problem to them.

3 MS. DeBUSK: Any other new
4 business to come before the Board?

5 Do we know our next meeting date of
6 July?

7 MS. ROBERTS: July 27th and
8 28th.

9 MS. DeBUSK: July the 27th and
10 28th. If everyone would check their
11 calendars and make sure that that will work
12 for you individually.

13 Do we have a motion to adjourn?

14 MR. TICKLE: Motion to adjourn.

15 MS. DeBUSK: Second?

16 MR. SMITH: Second.

17 MS. DeBUSK: All in favor, I?

18 THE BOARD: I.

19 MS. DeBUSK: Okay. Meeting
20 adjourned.
21 (Two documents were marked as
22 Board Meeting Exhibit Numbers 1 and 2.)
23 (PROCEEDINGS ENDED.)
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1 COURT REPORTER'S CERTIFICATE
2 STATE OF TENNESSEE:
3 COUNTY OF SHELBY:
4

5 I, CORA JEAN LEWIS, Reporter and
6 Notary Public, Shelby County, Tennessee,
7 CERTIFY:

8 1. The foregoing deposition was
9 taken before me at the time and place stated
10 in the foregoing styled cause with the
11 appearances as noted;

12 2. Being a Court Reporter, I then
13 reported the deposition in Stenotype to the
14 best of my skill and ability, and the
15 foregoing pages contain a full, true and
16 correct transcript of my said Stenotype notes
17 then and there taken;

18 3. I am not in the employ of and
19 am not related to any of the parties or their
counsel, and I have no interest in the matter
involved.

WITNESS MY SIGNATURE, this, the
1st day of June, 2010.

17
18
19

20 CORA JEAN LEWIS
21 Court Reporter
22 Notary Public
23 for the State of
24 Tennessee at Large

My commission expires:
June 11, 2011